

Bankruptcy Info

INFORMATION REGARDING CONSUMER BANKRUPTCY

Bankruptcy may be the answer for you if you are struggling with your debts, facing foreclosure, garnishment, or if you have tickets that have led to a drivers license suspension. When you make an appointment at North Sound Law, P.S., you will meet and consult with an experienced attorney who can answer all of your specific questions.

At North Sound Law, P.S., we help individuals and families from Seattle to Bellingham get debt relief and a fresh financial start through the Chapter 7 Bankruptcy process. Over the past 18 years, we've helped hundreds of people, just like you, get out of debt and start re-building their financial future.

During our initial meeting, we will discuss your current financial situation, the available options, and next steps. Bankruptcy does not have to be a scary proposition and it's out goal to make this as comfortable a process as possible.

Hopefully, this page will give you a basic reference regarding Chapter 7 and/or 13. The information is general and your case may have issues that are not covered here or there may be things that simply don't apply to your case. Rest assured though, that whatever questions you have regarding your bankruptcy, the answers are only an appointment away.

About Chapter 7

Chapter 7, or the "fresh start" bankruptcy, has been available to people in the US since the late 1800's and is the most common type of bankruptcy protection. The law recognizes that sometimes, people find themselves too far in debt to make payment and that there is a benefit in giving people relief from the debt.

The goal of Chapter 7 is to give you relief from your debts. In order to obtain that relief you have to do a number of things:

1. File a complete, correct and honest set of bankruptcy papers.
2. You must tell the truth in court.
3. You must cooperate with the bankruptcy trustee.

Can I File a Chapter 7 Bankruptcy?

Chapter 7 Bankruptcy is available to anyone who meets certain eligibility requirements. You should have a bankruptcy lawyer carefully review your eligibility but the most common requirements are that you have not filed a bankruptcy within the last 8 years, that you can show the court that you cannot pay back your debts, and that you are coming to the court in good faith.

What about the New Bankruptcy Laws?

Despite what you may have read in the paper or heard from a friend, it is still possible to file for Chapter 7. Personal bankruptcy law did change in October 2005, but most people who were eligible before then are still eligible today. There are a number of myths and misinformation about the new law that have discouraged people from filing. But, the reality is that credit card debts are still allowed to be discharged, Chapter 7 still eliminates debts in their entirety, not just in part, and finally, only those people who can afford to pay their debts can be forced into a Chapter 13 bankruptcy.

What Types of Debts Can I Eliminate?

Most unsecured debts - like credit cards, collections, personal loans, and medical bills - can be eliminated. There are some debts that Chapter 7 cannot help you with including taxes, child support, maintenance, property settlements (this is tricky, so if you have been divorced, make sure to let me know), student loans, court fines such as traffic tickets, debts incurred through fraud or theft, and some debts you have voluntarily incurred just before filing.

What if I can't file Chapter 7?

Chapter 7 is usually the best option; however, if you are not eligible for Chapter 7 bankruptcy or if Chapter 7 will not meet your specific needs and goals, Chapter 13 bankruptcy is a useful alternative.

What can I do about creditors calling me?

Once you hire North Sound Law, PS, you can tell your creditors to call us instead. The annoying phone calls to you will stop.

Flat-fee Pricing for Chapter 7 Bankruptcies

My attorney fees range from \$1,000.00 to \$1,500.00 depending on the complexity of your case but most cases qualify for the \$1,000.00 price. In addition, court-related costs typically add up to between \$450.00 to \$500.00 dollars.

You will have to pay your fees and costs up front, before your case is filed (your attorney can't be your attorney and a creditor at the same time). However, we can work out a payment plan and a strategy to keep creditors at bay until you can file your bankruptcy petition.

About Chapter 13

Chapter 13 - also called a wage-earner plan - is an way to restructure your debts and helps you avoid problems you would face if you were simply in default on your debts. In some cases, you pay off your debts in full. But most times, you pay off some types of debts while others get eliminated altogether.

When is a Chapter 13 better than a Chapter 7?

Chapter 13 is particularly useful for past due house or car payments and is a much better way to handle tax debt, student loan debt, and/or court fines.

How much is the monthly payment?

That depends entirely on your specific case. There is no one-size fits all amount. The monthly payment is designed to be a one that you can afford.

How is Chapter 13 different from Consumer Credit Counseling?

First, creditors have to honor a Chapter 13 and are bound by the court rules applying to such cases. Credit Counseling is voluntary and creditors don't have to honor your requests. Second, consumer debts are interest free in most Chapter 13 cases. Third, Chapter 13 helps straighten out problems with mortgages and cars that Credit Counseling will not touch.

How much does it cost to file a Chapter 13 Bankruptcy?

The fees are set by the court and are paid by the trustee out of your monthly payment. In addition, there are court-related costs of between \$400.00 and \$500.00. In most circumstances, I do require a portion of the fees to be paid up front.

PROCEDURE

The Bankruptcy process is generally a fairly easy one.

1. You fill out the questionnaire we will provide you. Make sure to fill it out completely. Then return it to our offices.
2. We will then prepare all the forms that have to be filed with the court.
3. You complete your pre-filing credit counseling course.
4. You come in and review the draft of your paperwork with us. We'll make any necessary changes and once everything is completely in order, you've signed the papers, and the fees and costs in your case have been paid in full, we will file the case with the court.

Any debts you incur after that the date of filing will NOT be discharged in bankruptcy.

5. Your creditors will all be notified of the bankruptcy. Any lawsuits that are pending, or repossessions or foreclosures, will be stayed (stopped) pending resolution or order by the bankruptcy court.

6. Approximately 2-3 weeks later, you will receive notice of your First Meeting of Creditors hearing. The hearing will occur approximately 4 weeks after the case is filed. An attorney will attend that hearing with you.

TRUSTEE

Upon filing, the Court appoints a trustee to handle your case. The trustee is an attorney, hired by the court, to determine what, if any, assets you have which are (a) not exempt and (b) which can be sold to satisfy parts of your debt. The trustee may elect to have some of your property appraised. If that is the case, you are duty bound to cooperate with the appraisal.

In most cases, the exemptions will cover all of your property and you won't lose anything. However, if you own your home and you have a net equity exceeding \$125,000, you may lose your home. In reviewing your paperwork, the property you have and its values, we will be able to tell you wether its possible that the trustee may take some of your property.

DEBTS NOT DISCHARGED

Your goal in filing bankruptcy is to be relieved of your debts. Although most debts are dischargeable, some are not.

Secured debts: These are debts secured by a piece of property - those you are most likely to have are car loans and a house mortgage. If you wish to retain the property, you will have to reaffirm the debt - that is, agree to keep paying off the whole debt after the bankruptcy. If you don't want to keep paying the debt, I will help make arrangements for you to return the property.

Other non-dischargeable debt: In general, taxes, fines, spousal maintenance (alimony), child support, student loans, and some court judgments are not dischargeable. There are some exceptions however, and if you owe any of these types of debts, we will discuss fully with you whether or not they are dischargeable.

Fraud, misrepresentation, embezzlement, theft and assault:

These debts deal with the concept of the honest debtors. If you appear to have these types of debts, make sure that you talk to us about it. Creditors can file suit within the bankruptcy court claiming that a debt should not be discharged. Representation in such matters will cause you to incur additional attorney's fees.

DENIAL OF DISCHARGE

In extreme cases the court may deny the discharge of a debtor in its entirety. There are a number of grounds for such a denial. For the most part, they have to do with honesty, such as, failing to tell the truth or hiding assets.

If your discharge is denied the bankruptcy will go forward and you will not be able to file again for another 6 years. Your creditors may continue to pursue collection efforts against you. In addition, you could be prosecuted for perjury or fraud, and the criminal sanctions are severe - 5 years in prison and/or a \$500,000 fine. No asset is worth taking these risks. You must disclose all your assets to your attorney and to the court. If the particular asset is not protected under the exemptions, we can explore the legal means to try to preserve that asset.

FIRST MEETING OF CREDITORS (SECTION 341 MEETING)

This hearing is nothing to worry about. In most cases, this is the **ONLY** hearing you will attend in your case. Your attorney will ask you some brief questions, then the trustee may or may not have questions for you and sometimes, creditors are present who ask questions about the value of certain assets. They are usually not difficult or embarrassing. In most cases though, very few, if any, creditors attend. You can dress casually.

You must attend this hearing. If you file jointly, husband and wife, you must **BOTH** attend this hearing.

REAFFIRMATIONS

You may wish to keep some accounts open, even though you could discharge them. Typically, people wish to keep their car and/or house payments, and they may choose to keep a credit card open as well. Some creditors will allow you to do so.

You must promise, in writing, to keep paying such a debt. This is called a reaffirmation.

Reaffirmation agreements are voluntary, must not place a heavy burden on you financially, and must be in your best interest. They can be canceled anytime before the Court issues your discharge, or within 60 days of the time the reaffirmation agreement is filed with the court.

If you reaffirm a debt and then fail to pay it, you still owe the debt - as if there was no bankruptcy.

CREDIT

Filing a bankruptcy can have a negative impact on you and/or your credit rating (though likely not worse than having the bad credit you might already have). It takes time and common sense to re-establish a good credit rating - but it can be done. Wise use of credit after the bankruptcy will assist you in re-establishing credit.